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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,345	06/14/2007	Takashi Inubushi	09867/0204692-US0	5514
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DARBY & DARBY P.C. P.O. BOX 770 Church Street Station New York, NY 10008-0770				
EXAMINER				
JONES, MARCUS D				
ART UNIT		PAPER NUMBER		
3714				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,345

Applicant(s)

INUBUSHI ET AL.

Examiner

Marcus D. Jones

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/100)
- Paper No(s)/Mail Date IDS (9 June 2006)
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Objections

2. Claim 1 is objected to because of the following informalities: In paragraphs 6, 7 and 9, respectively, the word "for" should be removed. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In reference to claim 3, it is unclear what the phrase, " the control information update device changes a degree of a change of the attack control information..." means. For the purposes of this office action, the Examiner will interpret this phrase as, " the control information update device changes the degree of attack based on the change of the attack control information..."

Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1, 2 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Ishihara (US PGPub 2002/0028710).

In reference to claim 1, Ishihara discloses: A card game system for playing a battle game in which a character which is an operation target of a player and an opponent make an attack on each other based on information recorded in a card, the card game system comprising: a reading device configured to read the information recorded in the card (pg 4, par 41); a character information storage device configured to store character information that is information about offensive abilities of the character in association with character identification information for identifying a type of the

character (pg 1, par 10); an attack content information storage device configured to store information about a degree of difficulty of an attack content of the attack and attack information including a magnitude of the attack on the opponent made according to the attack content in association with attack content identification information for identifying a type of the attack content (pg 3, par 28); a control information storage device configured to store attack control information set based on the information about the offensive abilities and the information about the degree of difficulty in association with the character identification information and the attack content identification information (pg 3, par 29); a character setting device configured to set, when the character identification information stored in the card is read by the reading device, the character identification information as the operation target (pg 1, par 10); an attack control device configured to read, when the attack content identification information stored in the card is read by the reading device after the character identification information is set by the character setting device, the attack control information associated with the attack content identification information and the character identification information set as the operation target from the control information storage device, to read the magnitude of the attack associated with the attack content identification information from the attack content information storage device, and to control the magnitude of the attack based on the attack control information (pg 5, par 45); a result device configured to obtain a status result that can influence the opponent according to the magnitude of the attack controlled by the attack control device (pg 4, par 43); a control information update device configured to read, when the specific

conditions corresponding to the character identification information and the attack content identification information are satisfied, the attack control information associated with the character identification information and the attack content identification information corresponding to the specific conditions from the control information storage device to change a content of the attack control information, and to update the content of the attack control information to the changed content of the attack control information (pg 4, par 36-37). It is inherent that the data reader/writer can update the data contained on the game card.

In reference to claim 2, Ishihara further discloses wherein the attack control device controls the magnitude of the attack based on the attack control information when the attack content identification information recorded in the card is read within a specific time during the battle game (pg 5, par 44).

In reference to claim 4, Ishihara discloses: wherein the control information update device updates a content of the information about the offensive abilities stored in association with the character identification information corresponding to the specific conditions when the specific conditions are satisfied (pg 4, par 36-37), and the control information update device obtains the attack control information, based on the updated content of the information about the offensive abilities and on the information about the degree of difficulty stored in association with the attack content identification information corresponding to the specific conditions, and updates the content of the attack control information stored in association with the character identification information and the attack content identification information corresponding to the

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specific conditions to a content of the obtained attack control information (pg 4, par 36-37).

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishihara (US PGPub 2002/0028710).**

In reference to claim 3, Ishihara discloses all the elements of this claim. Ishihara discloses reading data from the game card to enhance the ability of a character during game play (pg 5, par 45). It would have been obvious to a person having ordinary skill in the art at the time of the invention to enhance the ability of the character and vary the degree of an attack based on the attack of the opponent and update the information on

the game card used. For example, when a player that attacks with a power move, the opponent would in return attack with a power move as opposed to a weak move that does not cause much damage.

Conclusion

The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. See attached USPTO form PTO – 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus D. Jones whose telephone number is (571)270-3773. The examiner can normally be reached on M-F 9-5 EST, Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Marcus D. Jones/

Examiner, Art Unit 3714

/XUAN M. THAI/

Supervisory Patent Examiner, Art Unit 3714